

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1022  
(Appropriations Committee)  
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the information technology department, the judicial branch, and the legislative council; to authorize the industrial commission to issue and sell evidences of indebtedness for ConnectND; to provide for centralization of information technology equipment, software, and supplies purchasing; to provide for a technology critical needs pool; to provide for a legislative council study; to create and enact a new section to chapter 54-10, a new section to chapter 54-35, a new subsection to section 54-44.4-02, a new section to chapter 54-59, and two new subsections to section 54-59-05 of the North Dakota Century Code, relating to information technology responsibilities of the state auditor, information technology committee responsibilities, purchasing services, and information technology department powers and duties; to amend and reenact sections 54-59-02, 54-59-05, and 54-59-09 of the North Dakota Century Code, relating to responsibilities of the information technology department and information technology standards; and to repeal section 54-59-13 of the North Dakota Century Code, relating to information technology reviews.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the information technology department for the purpose of defraying the expenses of the information technology department, for the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

Salaries and wages	\$25,715,694
Operating expenses	33,120,860
Capital assets	5,323,000
Division of independent study	5,625,480
Educational technology council	793,818
EduTech	2,540,348
Wide area network	7,436,223
Enterprise resource planning system (ConnectND)	20,000,000
Geographic information system	678,343
Prairie public broadcasting	1,337,138
Criminal justice information sharing	<u>4,741,200</u>
Total all funds	\$107,312,104
Less estimated income	<u>99,117,301</u>
Total general fund appropriation	\$8,194,803

**SECTION 2. ESTIMATED INCOME - SPECIAL FUNDS TRANSFERS.** The estimated income line item in section 1 of this Act includes \$862,059 from the special funds of various state agencies resulting from information technology reductions, for the biennium beginning July 1, 2003, and ending June 30, 2005. Notwithstanding any other provisions of law, the office of management and budget shall transfer to the information technology department the following amounts available from the special funds of the agencies listed, for the biennium beginning July 1, 2003, and ending June 30, 2005.

AGENCY	AMOUNT
State department of health	\$11,108
Aeronautics commission	6,942
Veterans' home	6,046

Department of financial institutions	7,881
Highway patrol	9,450
Department of transportation	350,000
Industrial commission	4,034
Bank of North Dakota	300,000
Housing finance agency	24,080
Mill and elevator association	23,230
Department of corrections and rehabilitation	24,567
Office of administrative hearings	4,311
Secretary of state	19,550
Attorney general	12,929
State auditor's office	1,465
Department of agriculture	1,329
Insurance commissioner	37,368
Vision services - school for the blind	2,725
Seed department	10,050
Parks and recreation department	4,994
Total	\$862,059

**SECTION 3. APPROPRIATION AUTHORITY - REDUCTIONS.** The office of management and budget shall reduce the special funds appropriation authority for the aeronautics commission, the department of financial institutions, the insurance commissioner, and the seed department, for the biennium beginning July 1, 2003, and ending June 30, 2005, by the amounts listed in section 2 of this Act relating to information technology reductions. The amounts will be available in the special funds for transfer as provided in section 2 of this Act.

**SECTION 4. BOND ISSUANCE AUTHORIZATION - PURPOSES - APPROPRIATION.** The industrial commission, acting as the North Dakota building authority, shall arrange through the issuance of evidences of indebtedness under chapter 54-17.2 from the effective date of this Act and ending June 30, 2005, for the funding in an amount not to exceed \$20,000,000 to be loaned to the information technology department for the purchase or lease of computer hardware and software and for the costs of the implementation services for the enterprise resource planning system commonly known as the ConnectND project. ConnectND is declared to be in the public interest and is for the purpose of this Act, a project as that term is defined in chapter 54-17.2. The amount of the evidences of indebtedness may be reduced by any moneys made available from the higher education institutions. The proceeds of the evidences of indebtedness and other available funds, as appropriated in section 1 of this Act, may be used for ConnectND project costs, debt service repayment, and refunding of ConnectND interim borrowings. The industrial commission shall issue evidences of indebtedness under this section with the condition that repayment on the evidences of indebtedness need not begin until July 1, 2005. For purposes of this Act, loan or debt service repayments are equivalent to lease rental payments as that term is used in chapter 54-17.2. ConnectND student fee revenues and other available funds are appropriated to the North Dakota university system for the North Dakota university system's share of the ConnectND project costs, debt service repayment, refunding of ConnectND interim borrowings, and other costs incidental to ConnectND implementation.

The authority of the industrial commission to issue evidences of indebtedness under this section ends June 30, 2005, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act and comply with any covenants entered into before that date.

The limitation provided in section 54-17.2-23 does not apply to repayments allocable to the evidences of indebtedness issued for the ConnectND project.

**SECTION 5. EVIDENCES OF INDEBTEDNESS ISSUANCE REPAYMENT RESPONSIBILITY.** Debt service on the evidences of indebtedness issued under section 2 of this Act must be available from charges made and collected by the information technology department from users of the system with twenty-nine percent of the debt service being the responsibility of state agencies and seventy-one percent of the debt service being the responsibility of higher education.

**SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$45,999, or so much of the sum as may be necessary, to the judicial branch for the purpose of defraying costs associated with information technology, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 7. INFORMATION TECHNOLOGY EQUIPMENT, SOFTWARE, AND SUPPLIES PURCHASING CENTRALIZATION - REPORTS TO THE INFORMATION TECHNOLOGY COMMITTEE.** No executive branch state agency, department, or institution, excluding institutions under control of the state board of higher education, may purchase any information technology equipment, software, or supply item with a cost greater than five hundred dollars without using the centralized purchasing services of the information technology department during the biennium beginning July 1, 2003, and ending June 30, 2005. The information technology department shall charge a ten percent purchasing fee on all purchases made under the centralized purchasing services program. The fee may only be paid with funds from the general fund or special funds derived from sources other than pension or federal funds. The first \$1,000,000 of the fee collections must be deposited in the information technology operating account, and the remaining fee collection must be deposited in an information technology critical needs pool established by the department for addressing critical information technology needs. The chief information officer may waive the purchasing fee to address unique situations. The information technology department shall provide periodic reports to the information technology committee regarding the bidding of information technology equipment, software, and supplies.

**SECTION 8. TECHNOLOGY CRITICAL NEEDS POOL - APPROPRIATION - BUDGET SECTION APPROVAL.** The funding in the information technology critical needs pool established in section 7 of this Act is appropriated to the information technology department for the biennium beginning July 1, 2003, and ending June 30, 2005, for addressing executive branch state agencies, departments, and institutions, excluding institutions under the control of the state board of higher education, critical information technology needs. Executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education, requesting critical needs funding shall submit a written request detailing the purpose and need for the funding to the chief information officer of the information technology department. Requests approved by the information technology department must be forwarded to the office of management and budget which shall transfer funding from the critical needs pool to agencies, departments, and institutions upon approval of the request by the budget section, which is hereby appropriated.

**SECTION 9. TRANSFER OF APPROPRIATION AUTHORITY BETWEEN LINE ITEMS.** Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items for state agencies, departments, and institutions as may be requested to accommodate information technology funding reductions made by the fifty-eighth legislative assembly. The office of management and budget shall report to the budget section regularly on transfers made pursuant to this section.

**SECTION 10. INFORMATION TECHNOLOGY LEGISLATIVE COUNCIL STUDY - APPROPRIATION - REPORTS TO THE BUDGET SECTION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the legislative council for the biennium beginning July 1, 2003, and ending June 30, 2005, for the purpose of contracting with consultants to conduct an information technology organizational study and an information technology management study and to provide assistance with the preparation of the request for proposals and consultant oversight. The studies must be completed by October 1, 2003, and periodic progress reports on the status of the studies must be provided to the information technology committee. The information technology committee may extend the October 1, 2003, deadline as it deems appropriate. A final report must be presented to the budget section upon completion of the studies.

The information technology organizational study must include a review and identification of:

1. The cost and benefits of a centralized information technology structure and the cost and benefits of a decentralized information technology structure.
2. The cost of providing electronic mail administration, file and print server administration, seat management and desktop personal computer support, mainframe and distributed computing hosting services, consolidated storage management and disaster recovery, and software development.
3. The roles and responsibilities of agency personnel providing information technology services under a centralized information technology structure and a decentralized information technology structure.
4. The positions and competencies needed by the information technology department to provide the information technology services on a centralized basis, including the organizational changes required within the department to provide the centralized services.
5. The human resource management issues, including change management, training, and employee compensation, to be addressed for a successful centralization.
6. The adequacy and quality of the services as currently provided and proper performance measures.
7. The comparison of current costs to industry data and data from other states.
8. Information technology services appropriate to be performed by individual agencies.
9. A plan to either centralize or decentralize the services identified, including the reorganization tasks, personnel transfers, and the changes required for information technology budgeting and cost allocation processes.

The information technology management study must include a review of:

1. The technology management processes of other states and private industry with respect to prioritizing state agency information technology budget requests, establishing information technology standards and policies, and overseeing information technology expenditures.
2. The role of other states in providing information technology services to nonstate government entities.
3. The level of information technology outsourcing in other state governments and the private sector and the applicability to the state of North Dakota.
4. The trends that will impact technology deployment and spending in the next five to ten years.
5. The level of coordination in the management of enterprise initiatives, such as the state wide area network, the enterprise resource planning system initiative, the geographic information systems initiative, and the criminal justice information sharing initiative, compared to other states, including a recommendation regarding the appropriate governance structure to provide the maximum benefits to the state.
6. The potential changes to the organizational structure of the information technology department and other state government entities as related to information technology.

**SECTION 11.** A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

**Information technology responsibilities.** The state auditor shall:

1. Conduct information technology compliance reviews, as determined necessary by the information technology committee, by conducting individual agency audits of information technology management, information technology planning, compliance with information technology plans, and compliance with information technology standards and policies and conducting statewide agency audits of compliance with specific information technology standards and policies.
2. Consult with the information technology department on audits of compliance with information technology plans and compliance with information technology standards and policies.
3. Participate in the information technology department's enterprise architecture process for developing information technology standards and policies.
4. Monitor major information technology projects for compliance with project management and information technology standards and policies.
5. Present results of information technology compliance reviews to the information technology committee and the information technology department's enterprise architecture committee.

**SECTION 12.** A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

**Information technology committee - Information technology reviews.** The information technology committee may request the state auditor to conduct an information technology compliance review. The review may consist of an audit of an agency's information technology management, information technology planning, compliance with information technology plans, and compliance with information technology standards and policies or an audit of statewide compliance with specific information technology standards and policies.

**SECTION 13.** A new subsection to section 54-44.4-02 of the North Dakota Century Code is created and enacted as follows:

Information technology equipment, software, and supply items with a cost greater than five hundred dollars as provided in section 54-59-05.

**SECTION 14.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Department shall establish certain standards for agencies - Advisory committee - Exceptions.** The department shall appoint an advisory committee consisting of representatives of state agencies for the purposes of prioritizing major computer software projects and establishing policies, standards, and guidelines for executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education and agencies of the judicial and legislative branches with respect to the purchase of computer software and computer systems. The chief information officer shall submit recommendations of the advisory committee regarding major software projects to the information technology committee for consideration by the committee and the drafting of appropriate legislation to implement the recommendations. The judicial and legislative branches shall annually notify the advisory committee on their major computer software projects and priorities. The chief information officer may exempt an agency from the policies, standards, and guidelines established by the committee to address situations unique to that agency. Before an executive branch state agency, department, or institution, excluding institutions under control of the state board of higher education, may purchase or contract for computer software or computer systems associated with electronic mail, file and print services hosting and support, desktop personal computers and desktop support services, mainframe and distributed computing hosting services, or services for disaster recovery of critical systems, the department shall review the proposed purchase and approve of the purchase.

**SECTION 15. AMENDMENT.** Section 54-59-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-02. Information technology department - Responsibility - Public policy.** The information technology department is established with the responsibility for all wide area network services planning, selection, and implementation for all state agencies, including institutions under the control of the board of higher education, counties, cities, and school districts in this state. With respect to a county, city, or school district, wide area network services are those services necessary to transmit voice, data, or video outside the county, city, or school district. In exercising its powers and duties, the department is responsible for computer support services, host software development, statewide communications services, standards for providing information to other state agencies and the public through the internet, technology planning, process redesign, and quality assurance. The department may not exercise its powers and duties in a manner that competes or otherwise interferes with the provision of telecommunications services to private, charitable, or nonprofit entities by privately or cooperatively owned telecommunications companies.

**SECTION 16.** Two new subsections to section 54-59-05 of the North Dakota Century Code are created and enacted as follows:

May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The department shall file with the state auditor before September 1, 2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.

Shall purchase information technology equipment, software, and supply items with a cost greater than five hundred dollars on behalf of other state agencies, departments, and institutions, excluding institutions under control of the state board of higher education, and may charge a purchasing fee of ten percent for such purchases.

**SECTION 17. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-05. Powers and duties of department.** The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment or software or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services

may not exceed a period of three years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council before executing a financing agreement. If the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed the amount appropriated to the department during that biennium for equipment.

5. Each executive branch agency or institution, ~~except~~ excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
- ~~6.~~ 6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
- ~~6.~~ 7. ~~May~~ Shall request information on or review information technology, applications, system development projects, and application development projects of executive branch agencies.
- ~~7.~~ 8. Shall study emerging technology and evaluate its impact on the state's system of information technology.
- ~~8.~~ 9. Shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
- ~~9.~~ 10. Shall review the information technology management of executive branch agencies or institutions, ~~including institutions under the control of the board of higher education as provided in section 54-59-13.~~
- ~~10.~~ 11. Shall perform all other duties necessary to carry out this chapter.

**SECTION 18. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-09. Information technology standards.** Based on information from state agencies and institutions, the department shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The policies, standards, and guidelines must be approved by the state information technology advisory committee. Unless an exemption is granted by the ~~department~~ chief information officer, each executive branch state agency and institution, excluding the institutions under the control of the board of higher education with respect to academic and research uses of information technology, shall comply with the policies and standards developed by the department. Unless an exemption is granted by the ~~department~~ chief information officer, each entity receiving wide area network services provided by the department shall comply with the policies and standards developed by the department with respect to access to or use of wide area network services.

**SECTION 19. REPEAL.** Section 54-59-13 of the North Dakota Century Code is repealed.

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1022.

House Vote:      Yeas    66      Nays    28      Absent    0

Senate Vote:    Yeas    28      Nays    19      Absent    0

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State